
SENATE BILL No. 397

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-19-4.5; IC 21-2-11.6; IC 21-3-1.7.

Synopsis: School referendum property tax levies. Revises the existing excessive levy referendum process for schools to provide that if the school property tax control board recommends that a school corporation be permitted to make a referendum tax levy for ensuing calendar years and the referendum is approved, the school corporation may impose a referendum tax levy that is separate from the school corporation's general fund tax levy. Provides that the voters may not approve a referendum tax levy that is imposed for more than seven years. Specifies that a referendum tax levy may be reimposed or extended through the referendum process. Provides that the property tax revenue from a referendum tax levy may be used for any lawful school expenses. Provides that the referendum tax levy may not be considered in the determination of the school corporation's state tuition support or the determination of the school corporation's maximum general fund tax levy.

Effective: January 1, 2002.

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January 18, 2001, read first time and referred to Committee on Finance.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 397

A BILL FOR AN ACT to amend the Indiana Code concerning education finance.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-19-4.5 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 4.5. (a) With
- 3 respect to every appeal petition that is delivered to the tax control board
- 4 by the state board of tax commissioners under section 4.1 of this
- 5 chapter and that includes a request for emergency financial relief
- 6 (except an appeal petition described in section 4.7 of this chapter), the
- 7 tax control board shall, after having made the study of the appeal
- 8 petition and related materials that the tax control board considers
- 9 necessary, make an appropriate recommendation to the state board of
- 10 tax commissioners. If the appeal petition requests an excessive tax levy
- 11 under subsection (c), the tax control board shall expedite the board's
- 12 review as necessary to permit the referendum to be conducted without
- 13 a special election. In respect of the appeal petition, the tax control
- 14 board may make to the state board of tax commissioners any of the
- 15 recommendations described in section 4.4(a) of this chapter, subject to
- 16 the limitations described in section 4.4(b) of this chapter.
- 17 (b) In addition, if the tax control board concludes that the appellant



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1 school corporation cannot, in the ensuing calendar year, carry out the
 2 public educational duty committed to the appellant school corporation
 3 by law if, for the ensuing calendar year, the appellant school
 4 corporation does not receive emergency financial relief, the tax control
 5 board may recommend to the state board of tax commissioners that the
 6 order of the county board of tax adjustment or the county auditor in
 7 respect of the budget, tax levy, or tax rate of the appellant school
 8 corporation be approved, or disapproved and modified, as specified in
 9 the tax control board's recommendation and that the appellant school
 10 corporation receive emergency financial relief from the state, on terms
 11 to be specified by the tax control board in the board's recommendation,
 12 in the form of:

- 13 (1) a grant or grants from any funds of the state that are available
 14 for such a purpose;
- 15 (2) a loan or loans from any funds of the state that are available
 16 for such a purpose;
- 17 (3) permission to the appellant school corporation to borrow funds
 18 from a source other than the state or assistance in obtaining the
 19 loan;
- 20 (4) an advance or advances of funds that will become payable to
 21 the appellant school corporation under any law providing for the
 22 payment of state funds to school corporations;
- 23 (5) permission to the appellant school corporation to:
 - 24 (A) cancel any unpaid obligation of the appellant school
 25 corporation's general fund to the appellant school corporation's
 26 cumulative building fund; or
 - 27 (B) use, for general fund purposes, any unobligated balance in
 28 the appellant school corporation's cumulative building fund
 29 and the proceeds of any levy made or to be made by the
 30 appellant school corporation for the appellant school
 31 corporation's cumulative building fund;
- 32 (6) permission to use, for general fund purposes, any unobligated
 33 balance in any construction fund, including any unobligated
 34 proceeds of a sale of the school corporation's general obligation
 35 bonds; or
- 36 (7) a combination of the emergency financial relief described in
 37 subdivisions (1) through (6).

38 (c) In addition to, or in lieu of, any recommendation that the tax
 39 control board may make under this section, the tax control board may
 40 recommend that the appellant school corporation be permitted to make
 41 ~~an excessive a referendum~~ tax levy for the ensuing calendar year
 42 **under this subsection.** The recommendation may not be put into effect

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until a majority of the individuals who vote in a referendum that is conducted in accordance with the following requirements approves the appellant school corporation's making ~~an excessive a referendum~~ tax levy for the ensuing calendar year:

(1) Whenever:

(A) the tax control board recommends to the state board of tax commissioners that the appellant school corporation be permitted to make ~~an excessive a referendum~~ tax levy for the ensuing calendar year if a majority of the individuals voting in a referendum held in the appellant school corporation approves the appellant school corporation's making ~~an excessive a referendum~~ tax levy;

(B) the state board of tax commissioners gives the board's written approval of the recommendation; and

(C) the appellant school corporation requests that the tax control board take the steps necessary to cause a referendum to be conducted;

the tax control board shall proceed in accordance with this subsection.

(2) The question to be submitted to the voters in the referendum must read as follows:

"For the __ (insert number) calendar year **or years** immediately following the holding of the referendum, shall the school corporation impose a property tax rate that does not exceed _____ (insert amount) cents (\$0.__) (insert amount) on each one hundred dollars (\$100) of assessed valuation and that is in addition to the school corporation's normal tax rate?"

The voters in a referendum may not approve a referendum tax levy that is imposed for more than seven (7) years. However, a referendum tax levy may be reimposed or extended under this subsection.

(3) The tax control board shall act under IC 3-10-9-3 to certify the question to be voted on at the referendum to the county election board of each county in which any part of the appellant school corporation lies. Each county clerk shall, upon receiving the question certified by the tax control board, call a meeting of the county election board to make arrangements for the referendum. The referendum shall be held in the next primary or general election in which the residents of the appellant school corporation are entitled to vote after certification of the question under IC 3-10-9-3. However, if the referendum would be held at a

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primary or general election more than six (6) months after certification by the tax control board, the referendum shall be held at a special election to be conducted not less than sixty (60) days after the question is certified to the circuit court clerk or clerks by the tax control board. The appellant school corporation shall advise each affected county election board of the date on which the appellant school corporation desires that the referendum be held, and, if practicable, the referendum shall be held on the day specified by the appellant school corporation. The referendum shall be held under the direction of the county election board, which shall take all steps necessary to carry out the referendum. Not less than ten (10) days before the date on which the referendum is to be held, the county election board shall cause notice of the question that is to be voted upon at the referendum to be published in accordance with IC 5-3-1. ~~and IC 20-5-12.~~ If the referendum is not conducted at a primary or general election, the appellant school corporation in which the referendum is to be held shall pay all of the costs of holding the referendum.

(4) Each county election board shall cause the question certified to the circuit court clerk by the tax control board to be placed on the ballot in the form prescribed by IC 3-10-9-4. The county election board shall also cause an adequate supply of ballots and voting equipment to be delivered to the precinct election board of each precinct in which the referendum is to be held.

(5) The individuals entitled to vote in the referendum are all of the registered voters resident in the appellant school corporation.

(6) Each precinct election board shall count the affirmative votes and the negative votes cast in the referendum and shall certify those two (2) totals to the county election board of each county in which the referendum is held. The circuit court clerk of each county shall, immediately after the votes cast in the referendum have been counted, certify the results of the referendum to the tax control board. Upon receiving the certification of all of the votes cast in the referendum, the tax control board shall promptly certify the result of the referendum to the state board of tax commissioners. If a majority of the individuals who voted in the referendum voted "yes" on the referendum question, the state board of tax commissioners, upon being notified in the manner described in this subsection of the result of the referendum, shall take prompt and appropriate steps to notify the appellant school corporation that the appellant school corporation is authorized to collect, for the calendar year that next follows the calendar year

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in which the referendum is held, ~~an excessive a referendum~~ tax levy not greater than the amount approved in the referendum. The ~~excessive referendum~~ tax levy ~~shall become the adjusted base~~ **levy for that may be imposed for the number of** calendar year **years approved by the voters** following the referendum for the school corporation in which the referendum is held. ~~unless the question upon which the voters voted at the referendum has been framed to preclude the excessive tax levy from becoming the adjusted base levy of the school corporation.~~ **If a majority of the individuals who voted in the referendum voted "yes" on the referendum question, the school corporation shall establish a referendum tax levy fund under IC 21-2-11.6. A school corporation's referendum tax levy may not be considered in the determination of the school corporation's state tuition support under IC 21-3-1.7 or the determination of the school corporation's maximum general fund tax levy under this chapter and IC 21-3-1.7.** If a majority of the persons who voted in the referendum did not vote "yes" on the referendum question, the appellant school corporation may not make any tax levy for its general fund other than a normal tax levy.

(d) With respect to any school corporation to which a loan or advance of state funds is made under this section, or for which such a loan or an advance is recommended, for purposes other than the purpose specified in section 4.7 of this chapter, the tax control board may recommend to the state board of tax commissioners that the school corporation be authorized, for a specified calendar year, and solely for the purpose of enabling the school corporation to repay the loan or advance, to collect an excessive tax levy. A recommendation under this subsection must specify the amount of the recommended excessive tax levy. Upon receiving the recommendation from the tax control board, and without any other proceeding, the state board of tax commissioners may authorize the school corporation, for a specified calendar year, to make an excessive tax levy in accordance with the recommendation of the tax control board or in accordance with a modification of the recommendation that the state board of tax commissioners determines is proper. Whenever the state board of tax commissioners exercises the power given to the state board of tax commissioners under this subsection, the state board shall, in the state board's order to the affected school corporation, specify the amount of the authorized excessive tax levy and take appropriate steps to ensure that so much of the proceeds of the excessive tax levy as should be used for loan repayment purposes is not used for any other purpose. The state board

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of tax commissioners may not exercise the power described in this subsection to authorize any school corporation to collect an excessive tax levy for more than one (1) calendar year in any period of four (4) consecutive calendar years.

SECTION 2. IC 21-2-11.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]:

Chapter 11.6. Referendum Tax Levy Fund

Sec. 1. As used in this chapter, "school corporation" has the meaning set forth in IC 21-2-11-1.

Sec. 2. As used in this chapter, "governing body" has the meaning set forth in IC 21-2-11-1.

Sec. 3. (a) The governing body of each school corporation for which a referendum tax levy is approved under IC 6-1.1-19-4.5(c) shall establish a referendum tax levy fund.

(b) A school corporation may impose a referendum tax levy in the amount allowed under IC 6-1.1-19-4.5(c) for the school corporation.

(c) Property tax collections from a school corporation's referendum tax levy shall be deposited in the referendum tax levy fund. Money in the fund may be used for any lawful school expenses.

SECTION 3. IC 21-3-1.7-3.1, AS AMENDED BY P.L.3-2000, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 3.1. (a) As used in this chapter, "previous year revenue" for calculations with respect to a school corporation equals:

(1) the school corporation's tuition support for regular programs, including basic tuition support, and excluding:

(A) special education grants;

(B) vocational education grants;

(C) at-risk programs;

(D) the enrollment adjustment grant;

(E) for 1999 and thereafter, the academic honors diploma award; and

(F) for 2001 and thereafter, the primetime distribution;

for the year that precedes the current year; plus

(2) the school corporation's tuition support levy for the year that precedes the current year before the reductions required under section 5(1) and 5(2) and ~~5(3)~~ of this chapter; plus

(3) the school corporation's excise tax revenue for the year that precedes the current year by two (2) years; minus

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(4) an amount equal to the reduction in the school corporation's tuition support under subsection (b) or IC 20-10.1-2-1, or both.

(b) A school corporation's previous year revenue shall be reduced if:

(1) the school corporation's state tuition support for special or vocational education was reduced as a result of a complaint being filed with the department of education after December 31, 1988, because the school program overstated the number of children enrolled in special or vocational education programs; and

(2) the school corporation's previous year revenue has not been reduced under this subsection more than one (1) time because of a given overstatement.

The amount of the reduction equals the amount the school corporation would have received in tuition support for special and vocational education because of the overstatement.

SECTION 4. IC 21-3-1.7-5, AS AMENDED BY P.L.273-1999, SECTION 132, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 5. As used in this chapter, "tuition support levy" means with respect to a school corporation for a year the maximum general fund ad valorem property tax levy for the school corporation determined under IC 6-1.1-19-1.5 reduced by the following:

(1) An amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

~~(2) The original amount of any excessive tax levy the school corporation imposed as a result of the passage, during the preceding year, of a referendum under IC 6-1.1-19-4.5(c) for taxes first due and payable during the year.~~

~~(3)~~ (2) The portion of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.

SECTION 5. IC 21-3-1.7-6.8, AS AMENDED BY P.L.273-1999, SECTION 135, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 6.8. A school corporation's target general fund property tax rate for purposes of IC 6-1.1-19-1.5 is the result determined under STEP THREE of the following formula:

STEP ONE: This STEP applies only if the amount determined in STEP FIVE of the formula in section 6.7 of this chapter minus the result determined in STEP ONE of the formula in section 6.7 of

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1 this chapter is greater than zero (0). Determine the result under
2 clause (E) of the following formula:

3 (A) Divide the school corporation's current assessed valuation
4 by the school corporation's current ADM.

5 (B) Divide the clause (A) result by ten thousand (10,000).

6 (C) Determine the greater of the following:

7 ~~(i)~~ (i) The clause (B) result.

8 (ii) Eleven dollars and fifty cents (\$11.50) in 2000 and
9 twelve dollars and fifty cents (\$12.50) in 2001.

10 (D) Determine the result determined under item (ii) of the
11 following formula:

12 ~~(i)~~ (i) Subtract the result determined in STEP ONE of the
13 formula in section 6.7 of this chapter from the amount
14 determined in STEP FIVE of the formula in section 6.7 of
15 this chapter.

16 (ii) Divide the item ~~(i)~~ (i) result by the school corporation's
17 current ADM.

18 (E) Divide the clause (D) result by the clause (C) result.

19 (F) Divide the clause (E) result by one hundred (100).

20 STEP TWO: This STEP applies only if the amount determined in
21 STEP FIVE of the formula in section 6.7 of this chapter is equal
22 to STEP ONE of the formula in section 6.7 of this chapter and the
23 result of clause (A) is greater than zero (0). Determine the result
24 under clause (G) of the following formula:

25 (A) Add the following:

26 ~~(i)~~ (i) An amount equal to the annual decrease in federal aid
27 to impacted areas from the year preceding the ensuing
28 calendar year by three (3) years to the year preceding the
29 ensuing calendar year by two (2) years.

30 ~~(ii) The original amount of any excessive tax levy the school~~
31 ~~corporation imposed as a result of the passage, during the~~
32 ~~preceding year, of a referendum under IC 6-1.1-19-4.5(c) for~~
33 ~~taxes first due and payable during the year.~~

34 ~~(iii)~~ (ii) The portion of the maximum general fund levy for
35 the year that equals the original amount of the levy imposed
36 by the school corporation to cover the costs of opening a
37 new school facility during the preceding year.

38 (B) Divide the clause (A) result by the school corporation's
39 current ADM.

40 (C) Divide the school corporation's current assessed valuation
41 by the school corporation's current ADM.

42 (D) Divide the clause (C) result by ten thousand (10,000).



(E) Determine the greater of the following:

~~(i)~~ (i) The clause (D) result.

(ii) Eleven dollars and fifty cents (\$11.50) in 2000 and twelve dollars and fifty cents (\$12.50) in 2001.

(F) Divide the clause (B) result by the clause (E) amount.

(G) Divide the clause (F) result by one hundred (100).

STEP THREE: Determine the sum of:

(A) two dollars and sixty-nine and five-tenths cents (\$2.695) in 2000; and

(B) two dollars and seventy-one and seven-tenths cents (\$2.717) in 2001; and

if applicable, the STEP ONE or STEP TWO result.

SECTION 6. IC 21-3-1.7-8, AS AMENDED BY P.L.3-2000, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 8. Notwithstanding IC 21-3-1.6 and subject to section 9 of this chapter, the state distribution for a calendar year for tuition support for basic programs for each school corporation equals the result determined using the following formula:

STEP ONE:

(A) For a school corporation not described in clause (B), determine the school corporation's result under STEP FIVE of section 6.7 of this chapter for the calendar year.

(B) For a school corporation that has target revenue per adjusted ADM for a calendar year that is equal to the IC 21-3-1.7-6.7 STEP ONE (C) amount, determine the sum of:

(i) the school corporation's result under STEP ONE of section 6.7 of this chapter for the calendar year; plus

(ii) the amount of the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years; plus

~~(iii) the original amount of an excessive tax levy the school corporation imposed as a result of the passage, during the preceding year, of a referendum under IC 6-1.1-19-4.5(c) for taxes first due and payable during the year; plus~~

~~(iv)~~ (iii) the part of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.

STEP TWO: Determine the remainder of:

(A) the STEP ONE amount; minus

(B) the sum of:

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- 1 (i) the school corporation's tuition support levy; plus
- 2 (ii) the school corporation's excise tax revenue for the year
- 3 that precedes the current year by one (1) year.
- 4 If the state tuition support determined for a school corporation under
- 5 this section is negative, the school corporation is not entitled to any
- 6 state tuition support. In addition, the school corporation's maximum
- 7 general fund levy under IC 6-1.1-19-1.5 shall be reduced by the amount
- 8 of the negative result.

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